

STATE OF WASHINGTON



P.O. BOX 40255  
OLYMPIA, WA 98504-0255  
Phone: (360) 753-7300

OFFICE OF  
INSURANCE COMMISSIONER

TECHNICAL ASSISTANCE ADVISORY  
T 05-07

TO: All Life and Disability Agents

SUBJECT: Marketing Activity for the New Medicare Prescription Drug Program

DATE: October 27, 2005

Since October 1, 2005, marketing activity for the new Medicare prescription drug program, often referred to as Medicare Part D, has been permissible. According to the Centers for Medicare & Medicaid Services (CMS), only state-licensed insurance agents may engage in marketing activity. The Medicare Modernization Act does not preempt this state's agent licensing laws. Therefore, Washington state law and regulatory provisions regarding agent activity apply to the marketing of Medicare Part D in Washington.

CMS has received complaints about alleged misconduct by licensed agents with regard to Medicare Part D marketing. CMS will refer complaints it receives about agents licensed in Washington to the Office of Insurance Commissioner. This advisory is intended to remind licensed agents that they are subject to all laws and regulations of this state, including the duty of good faith and fair dealing, and prohibitions against misrepresentation, churning, and high pressure sales tactics.

This office views with a high degree of skepticism the use of a "lead" relating to Medicare Part D marketing activity for the purpose of selling other insurance products of any type. The new Part D program is fundamentally confusing for the Medicare beneficiary. It would be unwise for an agent to take advantage of the Medicare Part D lead to sell other insurance products to a Medicare beneficiary for which he or she may not be suited.

Allegations of misconduct related to Medicare Part D marketing will be thoroughly investigated by this office. Any proven misconduct by licensees will be disciplined, including possible loss of license, under all applicable laws of this state.

If you have questions concerning this Technical Assistance Advisory, you may contact Mike Huske at (360) 725-7261 or [MikeH@oic.wa.gov](mailto:MikeH@oic.wa.gov).